IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.14717 of 2000

Dated: 26-09-2007

Between:

GATI Corporation Ltd., having its registered office at 1-7-293,
MG Road, Secunderabad,
rep. by its General Manager (Legal)
Nirmal Kumar Pandey.

... Petitioner

and

1. The Sub Registrar,
   Shadnagar,
   Mahabubnagar District and another.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to declare the proceedings No.283/2000 dated 29-07-2000 of the first respondent as illegal and arbitrary and consequently direct the first respondent to mutate and note the name of the petitioner in respect of the properties in Survey Nos.123, 124, 139 & 145 situated at Shadnagar, Mahabubnagar District.

2. Various facts narrated in the affidavit filed in support of the writ petition may not be necessary to decide the issue involved in this writ petition. *Prima facie*, this Court is of the view that the order impugned in this writ petition can definitely be said to be a non-speaking order. When the petitioner has come forward and asked for mutation of immovable property, the first respondent ought to have assigned reasons as to why and how the same cannot be mutated in favour of the petitioner. Instead, in one line order, " with reference to the above cited, I am to inform that your request for mutation of properties cannot be entertained", the first respondent rejected the request of the petitioner. On this score alone this writ petition can be remanded to the first respondent – Sub Registrar for fresh consideration. Further the respondents in their counter affidavit at paragraph 3 have taken a specific stand that the Registration Act, 1908 (for short, 'the Act') provides for registration of documents and preparation of index etc., and that Section 89 of the Act provides for filing of certain documents sent to the Registering Officer by various authorities and that the order passed by a High Court in a company application cannot be accepted for the purpose of registration nor for filing and indexing.

3. Learned counsel for the petitioner has drawn my attention to the subsequent amendment brought to sub-section (10) of Section 2 of the Indian Stamp Act, 1899 (for short, 'the Stamp Act'), by A.P. Act 8 of 1998, which came into effect on 01-05-1998, by which the expression "conveyance" is redefined.

4. It is to be noted that in the said amendment the orders passed by the High Court under Section 394 of the Companies Act are not included. However, in the subsequent amendment made to sub-section (10) of Section 2 of the Stamp Act, by A.P. Act 19 of 2005, which came into force on 01-08-2005, every order made by the High Court under Section 394 of the Companies Act, 1956 (Central Act 1 of 1956) in respect of amalgamation or merger of companies is also brought within the definition of "conveyance".

Hence, the matter requires reconsideration.

5. Accordingly, the writ petition is allowed and the order impugned in the writ petition is hereby set aside and the matter is sent back to the first respondent – Sub Registrar for fresh consideration keeping in view the subsequent amendments made to sub-section (10) of Section 2 of the Stamp Act. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.26-09-2007
Note: LR. copy to be marked.
B/o
GLV